

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

DAIMLERCHRYSLER FINANCIAL SERVICES
AMERICAS LLC,

Plaintiff,

Civil Action No. 08-11

-against-

BALLENGER AUTOMOBILE CO.,
STEVEN H. McCANN and HELEN McCANN,

INJUNCTIVE RELIEF SOUGHT

Defendants.

ORDER OF SEIZURE

Plaintiff, DaimlerChrysler Financial Services Americas LLC, by its counsel, Deily, Mooney & Glastetter, LLP, having moved for an Order to Show Cause, Temporary Restraining Order and Order of Seizure pursuant to Rule 64 of the Federal Rules of Civil Procedure and 14 M.R.S.A. § 7301 *et seq.*, directing the U.S. Marshall or Sheriff of the County of York, State of Maine, or any other County within the State of Maine where the property may be found, to seize certain property hereinafter defined; and

Upon the Complaint, the Motion for Order to Show Cause, the Supporting Memorandum of Law, the Temporary Restraining Order and Order of Seizure of Property Pursuant to Fed. R. Civ. P. 64 and the Affidavit of Neil Berry sworn to January 7, 2008, submitted in support of Plaintiff's Motion for an Order to Show Cause, Temporary Restraining Order and Order of Seizure of Property; and, further, upon the Order to Show Cause and Temporary Restraining Order, signed on January 18, 2008, by the Hon. David M. Cohen, Magistrate Judge of the United States District Court for the District of Maine and entered herein on January 18, 2008, and the Bond of Plaintiff, approved by the Court as to amount and filed herein and due and proper service of said Order on Defendants; and upon Defendants' failure to file opposition to Plaintiff's Motion; and due deliberation having been had hereon, and good and sufficient cause having been

shown; and without objection of Defendant Ballenger Automobile, Co and Defendant Steven McCann,

NOW, upon the request of Plaintiff, and upon the foregoing matters filed of record herein; it is hereby

ORDERED, that pursuant to 14 M.R.S.A. § 7301 *et seq.*, after notice to the above referenced Defendants, the Court finds that there is a reasonable likelihood that the Plaintiff will prevail in the Replevin action, that the Bond required by law has been given by Plaintiff, that the amount of the Bond, \$824,154.00 is based upon a reasonable valuation of the property of which Replevin is sought, the Bond required by law has been given by the Plaintiff based upon a Collateral valuation in the amount of \$412,077.00, that the amount of the valuation is within the jurisdiction of the Court and further, that there is an immediate danger that the Defendants will damage, destroy or sell the property to be replevied, it is ordered that this Order of Seizure and Bond in the amount of \$824,154.00 herein are approved and that the goods and chattels in the possession of the Defendants described in Plaintiff's Complaint may be replevied; and it is hereby

ORDERED, that the U.S. Marshall or Sheriff of the County of York, State of Maine, or of any other County within the State of Maine where the property may be found, shall seize from the Defendants the following described property. **Property described in Schedule "A" annexed hereto and made a part hereof (hereinafter the "Property")**.; and it is further

ORDERED, that the U.S. Marshall or Sheriff may seize such of the Property as is located at Ballenger Automobile Co, 8 Roberts Street, Sanford, Maine 04073 by entering said premises, serving a copy of this Order of Seizure on any person apparently in charge of the premises and posting a copy of this Order of Seizure on the premises and by securing such Property against removal by the Defendants, or anyone acting in concert with them, without removing the property from said premises; and may designate agents or employees of Plaintiff in custody or

control of said Property on said premises to retain custody of and to safeguard such Property on said premises, which custody shall be deemed custody of the U.S. Marshall or Sheriff from the date and hour of his entry on the premises but shall be covered by the Bond given herein by Plaintiff; and it is further

ORDERED, that the Temporary Restraining Order heretofore issued herein shall remain in effect as to all of the aforesaid Property until same is seized by the U.S. Marshall or Sheriff or delivered to Plaintiff, upon the same grounds that the Order to Show Cause and Temporary Restraining Order was based; and it is further

ORDERED, that the Bond filed herein by DaimlerChrysler Services North America LLC is approved as to form and amount to support this Order of Seizure, as well as the Temporary Restraining Order herein decreed.

IT IS SO ORDERED.

Dated: February 25, 2008

/s/ George Z. Singal
Chief United States District Judge

SCHEDULE A

1. All inventory, including but not limited to all new and used motor vehicles, campers, travel trailers, mobile homes and motor homes and all automotive parts and accessories, whether now owned or hereafter acquired, together with all additions and accessions thereto; and
2. All Chattel Paper, Accounts whether or not earned by performance, Contract Rights, Deposit Accounts, Documents, Instruments, General Intangibles, Investment Property, Consumer Goods, Equipment, Fixtures and Leasehold Improvements, whether now owned or hereafter acquired, together with all additions and accessions thereto; and
3. All Proceeds of the property covered by this statement, including but not limited to Insurance Proceeds on the property, Money, Chattel Paper, Goods including without limitation motor vehicles received in trade, Contract Rights, Accounts whether or not earned by performance, Deposit Accounts, Documents, Instruments, General Intangibles, Claims and Tort Recoveries relating to the property.